

REMARKS

This is in response to the Office Action mailed June 21, 2006.

Claims 1, 6, 50, and 61 have been amended. Claims 38-40, 45 and 58 have been cancelled.

Support for amendments to claims 1, 50 and 61 can be found throughout the originally filed application, e.g., page 9, lines 4-23, and Table 4. No new matter is introduced. Applicants submit this amendment to place the claims in condition for allowance or better condition for Appeal pursuant to C.F.R. 1.116. Accordingly entry of this amendment is respectfully requested.

Independent claim 1 and its dependent claims 5-6, 27-37, 41-44, 46-49 and 52-53, independent claim 50 and its dependent claims 51, 54-55, 57, and 59-60, and independent claim 61 and its dependent claims 62-64, are currently pending and at issue.

Claim Rejections - 35 U.S.C. §112, first paragraph

The Examiner has rejected claims 1, 5-6, and 27-64, under 35 U.S.C. §112, first paragraph. The Examiner asserts that the specification, while enabling for those on a low-calorie diet, does not reasonably provide enablement for one on any diet and consuming any amount of dairy.

To facilitate prosecution, the independent claims have been amended to include the requirement of being on a restricted calorie diet. This should obviate the Examiner's rejection.

The Applicants respectfully request that this rejection be withdrawn.

Claim Rejections - 35 U.S.C. §112, second paragraph

The Examiner has rejected claims 1, 5-6, and 27-64, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention, because in claims 1, 50, and 61, the term "restricted caloric diet" is vague and subjective.

To facilitate prosecution, the independent claims have been amended to recite a caloric intake below ad lib in a range of about 200 to about 2500 kcal per day. This should obviate the Examiner's rejection.

Applicants respectfully request that this rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 103(a)

The Examiner has rejected the claims under U.S.C. § 103(a) as being unpatentable over (1) Metz et al (AJH 1:58-60 1988), (2) Skinner (Scan J Nutr 2/99 suppl 34 p. 45S), and (3) Summerbell (BMJ 317 1998 p. 1478-89), in view of knowledge that allegedly can be obtained by routine experimentation or is well known to one of ordinary skill in the art.

Applicants contend that the present invention is distinct from Metz, Skinner and Summerbell, because these references, either alone or in combination, do not disclose, teach or suggest the claimed invention as set forth in amended claims 1, 50 or 61 or their dependent claims 5-6, 27-37, 41-44, 46-49 and 52-53, dependent claims 51, 54-55, 57, and 59-60, and dependent claims 62-64, which include additional limitations distinguishing them from the cited references.

The rejection is traversed. The Applicants respectfully request that this rejection be withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner

reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicants request that the Examiner issue a Notice of Allowance indicating the allowability of claims 1, 5, 6 and 27-37, 41-44, 46-55, 57, 59-64 and that the application be passed to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: October 18, 2006

Respectfully submitted,

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